

BOARD OF APPEALS CASE NO. 4880	*	BEFORE THE
APPLICANT: Crossroads Food Market	*	ZONING HEARING EXAMINER
REQUEST: Special Exception to locate	*	OF HARFORD COUNTY
a restaurant in the B1 District;		
2719-2751 Fallston Road, Fallston	*	
	*	Hearing Advertised
	*	Aegis: 12/9/98 & 12/16/98
HEARING DATE: February 24, 1999	*	Record: 12/11/98 & 12/18/98
	*	

* * * * *

ZONING HEARING EXAMINER'S DECISION

The Applicant is Crossroads Food Market, Inc. The Applicant is requesting a Special Exception to Section 267-53(H)(7) of the Harford County Code, to operate a restaurant in a B1, Neighborhood Business District.

The subject parcel is located at 2719-2751 Fallston Road in the Fourth Election District. The parcel is identified as Parcel No. 405, in Grid 1-B, on Tax Map 47. The parcel is owned by Baltimore-Washington Science & Industry and contains 6.1 acres, more or less, and is zoned B1/AG.

The Harford County People's Counsel had entered an appearance in this matter. As a preliminary matter, the People's Counsel appeared and struck his appearance upon the condition that if the Special Exception is approved, a stipulated condition identified as Protestant's Exhibit No. 1 be imposed.

Mr. John Vendetti appeared and testified that he is the owner and operator of the Crossroads Food Market, Inc. Mr. Vendetti said that he has operated a deli/bakery/grocery store and carry-out operation on the premises for a number of years. The existing store contains 5,300 square feet, 2,300 square feet of which is used in the deli/bakery/pizza/carry-out operation and the remaining 3,000 square feet is currently used for the grocery business.

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The witness said that he is requesting a Special Exception to convert the 3,000 square feet currently used in the grocery business to a restaurant. The witness said that the food preparation on the premises will remain the same as it now exists and that the store is part of a shopping center located at the intersection of MD Routes 152 and 165 and that both roads have turn lanes and improved shoulders and that both roads are arterial roads.

Mr. Vendetti went on to explain that converting the grocery operation to a restaurant may, in fact, decrease traffic and he felt that the conversion would not create an adverse environmental impact. The witness reviewed the “Limitations, Guides and Standards” set forth in Section 267-9(l) of the Code and testified that he would comply with all parking and access requirements set forth in the Code, as well as all Health Department and other governmental requirements for conversion of the grocery operation to a restaurant.

No Protestants testified in opposition to the Applicant’s request and the Staff Report of the Department of Planning and Zoning recommends conditional approval.

CONCLUSION:

The Applicant is requesting a Special Exception to Section 267-53(H)(7), which provides:

“These uses may be granted in the VB and B1 Districts, provided that:

- a. In the VB and B1 Districts, the minimum parcel requirements in the B2 District shall apply.
- b. The parking and access requirements of this Part 1 shall apply.
- c. The use is located with direct access to an arterial or collector road.

The standard to be used in determining whether a requested Special Exception use would have an adverse effect and, therefore, should be denied, is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have an adverse effect above and beyond those inherently associated with a special exception use irrespective of its location within the zone. Schultz v. Pritts, 291 Md. 1.

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The uncontradicted testimony of the Applicant's witness was that the request meets the minimum parcel requirement in the B2 District, that all required parking and access requirements would be complied with, and that both MD Routes 152 and 165 are improved arterial roads with turn lanes and improved shoulders. The evidence also indicates that the proposed conversion to a restaurant would not adversely effect the "Limitations, Guides and Standards" set forth in Section 267-9(I).

No evidence was introduced to indicate that the proposed conversion would have an adverse effect above and beyond those inherently associated with the proposed use, irrespective of its location within the zone. Actually, the testimony indicates that the conversion may decrease the traffic volume to the center.

Therefore, it is the recommendation of the Hearing Examiner that the requested Special Exception be approved, subject to the following conditions:

1. The Applicant obtain all necessary permits and inspections for the proposed renovation and use.
2. The Applicant comply with all requirements of the Harford County Health Department.
3. The grant of the Special Exception shall be contingent upon the reduction of the septic reserve area behind (to the north of) Lot 1 of "Fallston Manor" an additional 25 feet such that the said septic reserve area shall be a total of 50 feet from the rear property line of Lot 1 of "Fallston Manor".

Date MARCH 16, 1999

L. A. Hinderhofer
Zoning Hearing Examiner